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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Letter dated 22 November 1996 from the Chargé d'affaires a.i. of the Permanent Mission of Greece to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit to you the attached reply to addendum 1, concerning a visit to Greece, to the interim report on the elimination of all forms of religious intolerance prepared by Mr. Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, pursuant to General Assembly resolution 50/183.

Since Greece was deprived of its right of reply on the occasion of the oral introduction of the report, owing to its late distribution, I should be grateful if you would have the text of this letter and the attached reply circulated as a document of the General Assembly under agenda item 110 (b) before the Third Committee completes its work.

(Signed) Vassilis KASKARELIS
Chargé d'affaires a.i.
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ANNEX

Reply of the Greek Government to addendum 1, concerning a visit to Greece, to the interim report on the elimination of all forms of religious intolerance prepared by Mr. Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights (A/51/542/Add.1)

The Greek Government welcomes the productive dialogue initiated between the Special Rapporteur on religious intolerance, Mr. Amor, and the Greek authorities, the religious and political leaders of the religious communities, the ecclesiastical authorities of the Orthodox Church, independent prominent persons and representatives of non-governmental organizations.

As noted by the Special Rapporteur, the various aspects of religious freedom - including freedom of belief, freedom of religious conscience, and freedom of worship and of the practice of rights of worship - have a sound legal foundation in article 13 of the 1975/1986 Greek Constitution. Greece is deeply committed to the effective respect of its international undertakings in this area, including article 9 of the European Convention on Human Rights, the relevant provisions of the 1923 Treaty of Lausanne, and the political undertakings entered into within the Organization for Security and Cooperation in Europe. Similarly, it should be recalled that Greece co-sponsors the resolution adopted each year by the General Assembly on the elimination of all forms of religious intolerance. Furthermore, the question of the ratification of the International Covenant on Civil and Political Rights, article 18 of which concerns freedom of conscience and religion, has recently been referred to the Greek Parliament.

I. Concerning the legal framework for the protection of religious freedom in Greece, the Special Rapporteur considers that the concept of "known religion", embodied in article 13 of the Constitution, "would appear to contravene the 1981 Declaration" on religious intolerance. This concern would seem to be unjustified. The purpose of the concept is to draw a distinction between religious beliefs to which everyone has access, and dogmas or sects whose activities are clandestine or even dangerous, as demonstrated by the recent tragic events in Japan, Switzerland and elsewhere, which led to the death of many people. It should be noted in this connection that all the relevant international instruments - including article 18 of the International Covenant on Civil and Political Rights - provide for the possibility of limiting religious freedom for reasons of public policy. As the Special Rapporteur himself acknowledges, all the religions to which he refers have long been recognized as "known religions" by the highest authorities of the Greek State, including the Council of State.

The Special Rapporteur places particular emphasis on the Greek legislation (Act 1672/1939) which penalizes proselytism. In combination with article 13 of the Constitution, this Act applies to all religions. In fact, it penalizes proselytism involving fraudulent means or promises of material gain. As the European Court of Human Rights recognized in the Kokkinakis case (judgement of

25 May 1993), the Act in question is designed to protect religions against interference in bad faith and not to restrict freedom of religious instruction.

The Court admittedly contested the application of Act 1672/1939 to the case in question, but in no way questioned the compatibility of the Act with article 9 of the European Convention on Human Rights, concerning freedom of conscience and religion.

The Special Rapporteur expresses "concern" about the fact that article 3 of the Constitution states that the dominant religion in Greece is that of the Eastern Orthodox Church of Christ. Without listing the States whose Constitution or legislation contain analogous provisions, we must note, as does the Special Rapporteur himself, that "a State religion does not in itself run counter to any international instruments" (para. 19). The concept of a "dominant religion" does not mean that the religion concerned exercises any power over the other religions. Article 3 of the Constitution reflects, in legal terms, the objective fact that the Orthodox Church is the religion of the overwhelming majority of the population of Greece (98 per cent), and has played and continues to play an important role in Greek cultural life.

With regard to the legislation concerning places of worship, the Special Rapporteur observes that a government permit issued by the Ministry of Education and Worship is required for their construction or establishment. It should be noted in this connection that the administration does not have discretion to grant or refuse the necessary permit. It must simply determine whether the conditions established by law have been met in each specific case.

It is true, however, that in practice certain procedural delays have required effective intervention by the Council of State. The Greek Government has taken due account of the Special Rapporteur's observations concerning simplification of the procedure.

II. Concerning the situation of the religious communities, the Greek Government is gratified to note a series of positive comments by the Special Rapporteur.

As Mr. Amor notes, "the situation of the Catholic Church in the religious sphere is said to be satisfactory, in particular with respect to its religious publications and processions". With regard to the vandalism perpetrated in the courtyard of the Cathedral of St. Denis in Athens in February 1996 by extremist elements, the Ministry of Foreign Affairs has expressed its sympathy to the Catholic Archbishop and requested the Ministry of Public Order to make sure that the perpetrators are brought to trial.

Concerning the Protestant community, the Special Rapporteur observes that "the situation of Protestant religions in the religious sphere does not seem to be difficult, particularly with respect to religious publications".

With regard to the Jewish community, the Special Rapporteur, after reviewing a series of specific issues, concludes that its situation is "eminently satisfactory".

In the case of the Muslim minority, the Special Rapporteur emphasizes its religious character, in accordance with the terms of the 1923 Treaty of Lausanne. Concerning the question of the muftis, the Special Rapporteur aptly observes that "in countries where Islam is the dominant religion ... it is common practice for the head of the religious hierarchy to be appointed by the State". On this point, Greece respects that practice. Moreover, since muftis in Greece have judicial functions which extend to family law and the law of succession, to appoint them through an election would jeopardize fulfilment of the provision in the Constitution (art. 8) stating that judges shall be appointed in accordance with the law; it would also compromise the principle of the independence of judges, both individually and in the exercise of their office, since it would create a situation of political patronage.

The Special Rapporteur also notes that "religious rites, practices and holidays and, in particular, the Ramadan fast, seem to take place freely and with the participation of theologians from the Arab countries and Turkey". The Special Rapporteur likewise emphasizes that the Koranic schools in Komotini and Echinos are functioning normally and that the Muslim community has at least 300 mosques in Thrace (paras. 109-110). In Thrace, the ratio of mosques to the Muslim population is higher than the ratio of Orthodox Churches to the Orthodox population.

With regard to the education of the Muslim minority, the Special Rapporteur observes that Turkish is taught in over 240 minority primary and secondary schools. He also emphasizes the recent efforts of the Greek Government in the area of higher education. An important law adopted in October 1995 greatly facilitates the admission of Muslim students to Greek universities and higher-level technical institutes.

It can thus be seen that Greece is scrupulously respecting its international commitments deriving from the 1923 Treaty of Lausanne and is continually seeking to improve the situation of the Muslim minority in a spirit of tolerance, non-discrimination and the rule of law.

Lastly, the Greek Government regrets that, contrary to usual United Nations practice, the Special Rapporteur presented the conclusions of his report on Greece orally, before the report had been circulated as an official document of the Third Committee. That being so, Greece was unable to exercise its right of reply immediately. Such departures from accepted procedure must be avoided at all costs, since they make it difficult for Member States to cooperate with the Special Rapporteurs and might lead in the long term to the blocking of the procedures concerned.